

The Texas Board of Chiropractic Examiners (Board) proposes new 22 TAC §80.8 (Board Member and Staff Initiated Complaints). This proposed action puts into rule the Board's current policy for processing complaints initiated by Board members and staff.

As practicing chiropractors, Board members interact with other licensees. On occasion, a Board (or staff) member may become aware of facts that indicate that another licensee may be in violation of the statutes and rules under the Board's jurisdiction and thus need to file a formal complaint. The proposed new rule formalizes the Board's procedures for processing those complaints.

The intent behind the new rule is transparency: the licensee who is the subject of a complaint under this rule will know the identity of the Board or staff member making the complaint; know that the allegations were considered independently by the Board's executive director before the complaint is forwarded to the Board's enforcement director; and know that any Board member filing a complaint will be prohibited from voting on or considering the results of any investigation or subsequent administrative action taken by the Board on the complaint.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed rule is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the rule as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Mr. Fortner has determined that for each year of the first five years the proposed rule will be in effect the public benefit is greater formal transparency in the Board's procedures for processing complaints initiated by Board members and staff.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed new 22 TAC §80.8. For each year of the first five years the proposed rule is in effect, Mr. Fortner has determined:

- (1) The proposed rule does not create or eliminate a government program.
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the Board.
- (4) The proposed rule does not require a decrease or increase in fees paid to the Board.
- (5) The proposed rule does not create a new regulation.
- (6) The proposal does repeal existing Board rules for an administrative process.

- (7) The proposed rule does not decrease the number of individuals subject to the rule's applicability.
- (8) The proposed rule does not positively or adversely affect the state economy.

Comments on the proposed rule or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 1801 North Congress Avenue, Suite 10.500, Austin, Texas 78701, via email: rules@tbce.state.tx.us; or fax: 512-305-6705, no later than 30 days from the date that this proposed rule is published in the *Texas Register*. Please include the rule name and number in the subject line of any comments submitted by email.

The rule is proposed under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic), §201.2205 (which requires the Board to adopt rules concerning the investigation of a complaint), and §201.2065 (which prohibits the Board from accepting anonymous complaints).

No other statutes or rules are affected by this proposed rule.

<rule>

80.8. Board Member and Staff Initiated Complaints.

- (a) A Board member or staff shall notify the Board's executive director in writing of any potential violation by an individual of a statute or rule under the Board's jurisdiction.
- (b) The executive director shall evaluate the written statement (and any supporting evidence) of the Board member or staff about the potential violation within five days of receipt.
- (c) If the executive director determines there is sufficient grounds to begin a formal complaint, the executive director shall forward the written statement (and any supporting evidence) to the Board's director of enforcement with instructions to open an investigation.
- (d) The director of enforcement shall name both the executive director and the Board member or staff as the complainant in an investigation opened under this section.
- (e) A Board member who initiates a complaint under this section shall recuse himself from any consideration of the complaint by the Board.
- (f) A Board member or staff who initiated a complaint under this section shall respond to a request for additional information by a Board investigator or the Enforcement Committee only in writing.